

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BIODELIVERY SCIENCES	)	
INTERNATIONAL, INC. and	)	
ARIUS TWO, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 18-1395-CFC
	)	
ALVOGEN PB RESEARCH &	)	
DEVELOPMENT LLC, ALVOGEN	)	
MALTA OPERATIONS LTD.,	)	
ALVOGEN PINE BROOK LLC,	)	
ALVOGEN, INC. and	)	
ALVOGEN GROUP, INC.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Pending before the Court are Plaintiff Biodelivery Sciences International, Inc.'s (BDSI's) objections to the Magistrate Judge's denial of Plaintiffs' request to strike Defendants revised § 112 contentions. D.I. 146.

"Pursuant to 28 U.S.C. § 636(b)(1)(A) and Federal Rule of Civil Procedure 72(a), non-dispositive pre-trial rulings made by magistrate judges on referred matters should only be set aside if clearly erroneous or contrary to law." *Masimo Corp. v. Philips Electronics North America Corporation*, 2010 WL 2836379, at \*1 (D. Del. July 15, 2010). "A finding is clearly erroneous if the determination "(1) is completely devoid of minimum evidentiary support displaying some hue of

credibility, or (2) bears no rational relationship to the supportive evidentiary data . . .” *Id.* (quoting *Haines v. Liggett Group Inc.*, 975 F.2d 81, 92 (3d Cir.1992)).

Applying this standard to the Magistrate Judge’s ruling, the Court finds no error in his decision. As the Magistrate Judge explained in his oral order, there is no “good cause” requirement in the Scheduling Order in this case and nothing about the schedules or dockets in this case or in *BioDelivery Sciences International, Inc. v. Chemo Research S.L.*, Civil Action No. 19-444-CFC-CJB, D.I. 39 at 5-6 (D. Del. Aug. 7, 2019) that “gave Defendants any indication that they were required to meet a ‘good cause’ hurdle before amending their contentions.” April 17, 2020 Oral Order. The Court does not find that the Magistrate Judge in any way abused his discretion in making this determination. Nor does it find that the Magistrate Judge abused his discretion in weighing the *Pennypack* factors.

NOW THEREFORE, IT IS HEREBY ORDERED that Plaintiff’s Objections (D.I. 146) are OVERRULED.

6-4-20  
Date

  
\_\_\_\_\_  
United States District Judge